

Introduced by Senator Ducheny

February 17, 2005

An act to amend and repeal Section 60640 of the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as introduced, Ducheny. Pupil assessment.

(1) The existing Standardized Testing and Reporting (STAR) Program, until July 1, 2007, requires each school district, charter school, and county office of education to administer a designated achievement test to each of its pupils in grades 3 and 7 and a standards-based achievement test to each of its pupils in grades 2 to 11, inclusive.

Existing law, commencing July 1, 2007, excludes pupils in grade 2 from the standards-based achievement test requirement.

This bill would make those provisions inoperative on July 1, 2011, and repeal them on January 1, 2012.

(2) Existing law, until July 1, 2007, requires the State Department of Education to develop and adopt primary language assessments that are aligned to the state academic content standards to supplant the primary language test, as specified.

This bill would extend the operation of those provisions until July 1, 2011.

(3) Existing law requires a pupil of limited-English-proficiency, as specified, to take a test in his or her primary language if a test is available, and if fewer than 12 months have elapsed after his or her initial enrollment in a school in the state.

This bill, instead, until July 1, 2011, would require a pupil of limited-English-proficiency, as specified, to take a test in his or her primary language if a test is available and he or she either receives

instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months.

(4) Existing law requires a school district, charter school, and county office of education to administer to each pupil, as specified, who is an individual with exceptional needs, a standards-based achievement test and an achievement test, with appropriate accommodations, and an alternate assessment to individuals with exceptional needs that are unable to participate.

This bill, until July 1, 2011, would require the Superintendent of Public Instruction to apportion funds to school districts to meet those requirements.

(5) Existing law, commencing July 1, 2007, authorizes and encourages the Superintendent and the State Board of Education to assist postsecondary educational institutions to use the California Standards Tests for academic credit, placement, and admissions processes.

This bill would make that authorization and encouragement operative commencing January 1, 2006, and until July 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60640 of the Education Code, as
2 amended by Section 15 of Chapter 233 of the Statutes of 2004, is
3 amended to read:
4 60640. (a) There is hereby established the Standardized
5 Testing and Reporting Program, to be known as the STAR
6 Program.
7 (b) Commencing in the 2004–05 fiscal year and each fiscal
8 year thereafter, and from the funds available for that purpose,
9 each school district, charter school, and county office of
10 education shall administer to each of its pupils in grades 3 and 7
11 the achievement test designated by the State Board of Education
12 pursuant to Section 60642 and shall administer to each of its
13 pupils in grades 2 to 11, inclusive, the standards-based
14 achievement test provided for in Section 60642.5. The state
15 board shall establish a testing period to provide that all schools
16 administer these tests to pupils at approximately the same time

1 during the instructional year, except as necessary to ensure test
2 security and to meet the final filing date.

3 (c) The publisher and the school district shall provide two
4 makeup days for the testing of previously absent pupils within
5 the testing period established by the state board in subdivision
6 (b).

7 (d) The governing board of the school district may administer
8 achievement tests in grades other than those required by
9 subdivision (b) as it deems appropriate.

10 (e) Pursuant to paragraph (17) of subsection (a) of Section
11 1412 of Title 20 of the United States Code, individuals with
12 exceptional needs, as defined in Section 56026, shall be included
13 in the testing requirement of subdivision (b) with appropriate
14 accommodations in administration, where necessary, and those
15 individuals with exceptional needs who are unable to participate
16 in the testing, even with accommodations, shall be given an
17 alternate assessment.

18 (f) (1) At the option of the school district, ~~pupils a pupil with~~
19 ~~limited-English-proficiency limited-English-proficiency who are~~
20 ~~is~~ enrolled in any of grades 2 to 11, inclusive, may take a second
21 achievement test in ~~their~~ *his or her* primary language. Primary
22 language tests administered pursuant to this subdivision and
23 subdivision (g) shall be subject to the requirements of
24 subdivision (a) of Section 60641. These primary language tests
25 shall produce individual pupil scores that are valid and reliable.

26 (2) Notwithstanding any other *provision of law*, the state board
27 shall designate for use, as part of this program, a single primary
28 language test in each language for which a test is available for
29 grades 2 to 11, inclusive, pursuant to the process used for
30 designation of the assessment chosen in the 1997–98 fiscal year,
31 as specified in Sections 60642 and 60643, *and as specified in*
32 *Section 60642.5*, as applicable.

33 (3) (A) The department shall use funds made available
34 pursuant to Title VI of the federal No Child Left Behind Act of
35 2001 and appropriated by the annual Budget Act for the purpose
36 of developing ~~and~~ *or* adopting primary language assessments that
37 are aligned to the state academic content standards. Subject to the
38 availability of funds, primary language assessments shall be
39 developed ~~and~~ *or* adopted for reading/language arts and
40 mathematics in the dominant primary language of

1 limited-English-proficient pupils. The dominant primary
2 language shall be determined by the count in the annual language
3 census of the primary language of each
4 limited-English-proficient pupil enrolled in the California public
5 schools.

6 (B) Once a dominant primary language assessment is available
7 for use for a specific grade level, it shall be administered in place
8 of the assessment designated pursuant to paragraph (1) for that
9 grade level.

10 (C) In choosing a contractor to develop a primary language
11 assessment, the ~~State Board of Education~~ *state board* shall
12 consider the criteria for choosing a contractor or test publisher as
13 specified by Sections 60642 and 60643, and as specified by
14 Section 60642.5, as applicable.

15 (D) Subject to the availability of funds, the assessments shall
16 be developed in grade order starting with the lowest grade
17 subject to the STAR Program.

18 (E) If the state board contracts for the development of primary
19 language assessments or test items to augment an existing
20 assessment, the state shall retain ownership rights to the
21 assessment and the test items. With the approval of the state
22 board, the department may license the test for use in other states
23 subject to a compensation agreement approved by the
24 Department of Finance.

25 (F) On or before January 1, 2006, the department shall submit
26 to the Legislature a report on the development and
27 implementation of the initial primary language assessments and
28 recommendations on the development and implementation of
29 future assessments and funding requirements.

30 (g) ~~A pupil of limited English proficiency identified as limited~~
31 ~~English proficient pursuant to the administration of a test made~~
32 ~~available pursuant to Section 60810 who is enrolled in any of~~
33 ~~grades 2 to 11, inclusive, and who either receives instruction in~~
34 ~~his or her primary language or has been enrolled in a school in~~
35 ~~the United States for less than 12 months shall be required to take~~
36 ~~a test in his or her primary language if a test is available, and if~~
37 ~~fewer than 12 months have elapsed after his or her initial~~
38 ~~enrollment in any public or nonpublic school in the state.~~

39 (h) (1) The ~~Superintendent of Public Instruction~~ shall
40 apportion funds to school districts to enable school districts to

1 meet the requirements of subdivisions (b), (f), and (g), *and the*
 2 *alternate assessment required pursuant to subdivision (e).*

3 (2) The state board shall annually establish the amount of
 4 funding to be apportioned to school districts for each test
 5 administered and shall annually establish the amount that each
 6 publisher shall be paid for each test administered under the
 7 agreements required pursuant to Section 60643. The amounts to
 8 be paid to the publishers shall be determined by considering the
 9 cost estimates submitted by each publisher each September and
 10 the amount included in the annual Budget Act, and by making
 11 allowance for the estimated costs to school districts for
 12 compliance with the requirements of subdivisions (b), (f), and
 13 (g), *and the alternate assessment required pursuant to*
 14 *subdivision (e).*

15 (3) An adjustment to the amount of funding to be apportioned
 16 per test may not be valid without the approval of the Director of
 17 Finance. A request for approval of an adjustment to the amount
 18 of funding to be apportioned per test shall be submitted in writing
 19 to the Director of Finance and the chairpersons of the fiscal
 20 committees of both houses of the Legislature with accompanying
 21 material justifying the proposed adjustment. The Director of
 22 Finance is authorized to approve only those adjustments related
 23 to activities required by statute. The Director of Finance shall
 24 approve or disapprove the amount within 30 days of receipt of
 25 the request and shall notify the chairpersons of the fiscal
 26 committees of both houses of the Legislature of the decision.

27 (i) For the purposes of making the computations required by
 28 Section 8 of Article XVI of the California Constitution, the
 29 appropriation for the apportionments made pursuant to paragraph
 30 (1) of subdivision (h), and the payments made to the publishers
 31 under the contracts required pursuant to Section 60643 or
 32 subparagraph (C) of paragraph (1) of subdivision (a) of Section
 33 60605 between the department and the contractor, are “General
 34 Fund revenues appropriated for school districts,” as defined in
 35 subdivision (c) of Section 41202, for the applicable fiscal year,
 36 and included within the “total allocations to school districts and
 37 community college districts from General Fund proceeds of taxes
 38 appropriated pursuant to Article XIII B,” as defined in
 39 subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the ~~superintendent~~ *Superintendent* all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) *The Superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the assessment results of California Standards Tests, including the augmented California Standards Tests, for academic credit, or placement, and admissions processes, or both purposes.*

(l) *The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.*

(m) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that ~~becomes operative on or~~ *is enacted* before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2007–08 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time

1 during the instructional year, except as necessary to ensure test
2 security and to meet the final filing date.

3 (c) The publisher and the school district shall provide two
4 makeup days for the testing of previously absent pupils within
5 the testing period established by the state board in subdivision
6 (b).

7 (d) The governing board of the school district may administer
8 achievement tests in grades other than those required by
9 subdivision (b) as it deems appropriate.

10 (e) Pursuant to paragraph (17) of subsection (a) of Section
11 1412 of Title 20 of the United States Code, individuals with
12 exceptional needs, as defined in Section 56026, shall be included
13 in the testing requirement of subdivision (b) with appropriate
14 accommodations in administration, where necessary, and those
15 individuals with exceptional needs who are unable to participate
16 in the testing, even with accommodations, shall be given an
17 alternate assessment.

18 (f) (1) At the option of the school district, a pupil with ~~limited~~
19 ~~English-proficiency~~ *limited-English-proficiency* who is enrolled
20 in any of grades 3 to 11, inclusive, may take a second
21 achievement test in his or her primary language. Primary
22 language tests administered pursuant to this subdivision and
23 subdivision (g) shall be subject to the requirements of
24 subdivision (a) of Section 60641. These primary language tests
25 shall produce individual pupil scores that are valid and reliable.
26 ~~Notwithstanding~~

27 (2) *Notwithstanding any other provision of law*, the state board
28 shall designate for use, as part of this program, a single primary
29 language test in each language for which a test is available for
30 grades 3 to 11, inclusive, pursuant to the process used for
31 designation of the assessment chosen in the 1997–98 fiscal year,
32 as specified by Sections 60642 and 60643, and as specified by
33 Section 60642.5, as applicable.

34 (3) (A) *The department shall use funds made available*
35 *pursuant to Title VI of the federal No Child Left Behind Act of*
36 *2001 and appropriated by the annual Budget Act for the purpose*
37 *of developing and adopting primary language assessments that*
38 *are aligned to the state academic content standards. Subject to*
39 *the availability of funds, primary language assessments shall be*
40 *developed and adopted for reading/language arts and*

1 *mathematics in the dominant primary language of*
2 *limited-English-proficient pupils. The dominant primary*
3 *language shall be determined by the county in the annual*
4 *language census of the primary language of each*
5 *limited-English-proficient pupil enrolled in the California public*
6 *schools.*

7 *(B) Once a dominant primary language assessment is*
8 *available for use for a specific grade level, it shall be*
9 *administered in place of the assessment designated pursuant to*
10 *paragraph (1) for that grade level.*

11 *(C) In choosing a contractor to develop a primary language*
12 *assessment, the state board shall consider the criteria for*
13 *choosing a contractor or test publisher as specified by Sections*
14 *60642 and 60643, and as specified by Section 60642.5, as*
15 *applicable.*

16 *(D) Subject to the availability of funds, the assessments shall*
17 *be developed in grade order starting with the lowest grade*
18 *subject to the STAR Program.*

19 *(E) If the state board contracts for the development of primary*
20 *language assessments or test items to augment an existing*
21 *assessment, the state shall retain ownership rights to the*
22 *assessment and the test items. With the approval of the state*
23 *board, the department may license the test for use in other states*
24 *subject to a compensation agreement approved by the*
25 *Department of Finance.*

26 *(g) A pupil identified as ~~limited-English-proficient~~*
27 *limited-English-proficient pursuant to the administration of a test*
28 *provided by Section 60810, who is enrolled in any of grades 3 to*
29 *11, inclusive, ~~and has not been reclassified as proficient in~~*
30 *~~English pursuant to reclassification procedures required to be~~*
31 *~~developed by Section 313~~ who either receives instruction in his*
32 *or her primary language or has been enrolled in a school in the*
33 *United States for less than 12 months, shall be required to take a*
34 *test in his or her primary language if a test is available ~~and if~~*
35 *~~fewer than 12 months have elapsed after his or her initial~~*
36 *~~enrollment in any public school in the state.~~*

37 *(h) (1) The Superintendent ~~of Public Instruction~~ shall*
38 *apportion funds to school districts to enable school districts to*
39 *meet the requirements of ~~subdivision~~ subdivisions (b), (f), and (g)*

1 *and* the alternative assessment required by subdivision (e), ~~and~~
2 ~~subdivisions (f) and (g).~~

3 (2) The state board shall annually establish the amount of
4 funding to be apportioned to school districts for each test
5 administered and shall annually establish the amount that each
6 publisher shall be paid for each test administered under the
7 agreements required pursuant to Section 60643. The amounts to
8 be paid to the publishers shall be determined by considering the
9 cost estimates submitted by each publisher each September and
10 the amount included in the annual Budget Act, and by making
11 allowance for the estimated costs to school districts for
12 compliance with the requirements of ~~subdivision~~ *subdivisions*
13 *(b), (f), and (g) and* the alternative assessment required by
14 subdivision (e), ~~and subdivisions (f) and (g).~~

15 (3) An adjustment to the amount of funding to be apportioned
16 per test may not be valid without the approval of the Director of
17 Finance. A request for approval of an adjustment to the amount
18 of funding to be apportioned per test shall be submitted in writing
19 to the Director of Finance and the chairpersons of the fiscal
20 committees of both houses of the Legislature with accompanying
21 material justifying the proposed adjustment. The Director of
22 Finance is authorized to approve only those adjustments related
23 to activities required by statute. The Director of Finance shall
24 approve or disapprove the amount within 30 days of receipt of
25 the request and shall notify the chairpersons of the fiscal
26 committees of both houses of the Legislature of the decision.

27 (i) For the purposes of making the computations required by
28 Section 8 of Article XVI of the California Constitution, the
29 appropriation for the apportionments made pursuant to paragraph
30 (1) of subdivision (h), and the payments made to the publishers
31 under the contracts required pursuant to Section 60643 or
32 subparagraph (C) of paragraph (1) of subdivision (a) of Section
33 60605 between the department and the contractor, are "General
34 Fund revenues appropriated for school districts," as defined in
35 subdivision (c) of Section 41202, for the applicable fiscal year,
36 and included within the "total allocations to school districts and
37 community college districts from General Fund proceeds of taxes
38 appropriated pursuant to Article XIII B," as defined in
39 subdivision (e) of Section 41202, for that fiscal year.

1 (j) As a condition to receiving an apportionment pursuant to
2 subdivision (h), a school district shall report to the ~~superintendent~~
3 *Superintendent* all of the following:

4 (1) The number of pupils enrolled in the school district in
5 grades ~~2~~ 3 to 11, inclusive.

6 (2) The number of pupils to whom an achievement test was
7 administered in grades ~~2~~ 3 to 11, inclusive, in the school district.

8 (3) The number of pupils in paragraph (1) who were exempted
9 from the test at the request of their parents or guardians.

10 (k) The ~~superintendent~~ *Superintendent* and the state board are
11 authorized and encouraged to assist postsecondary educational
12 institutions to use the *assessment results of* California Standards
13 Tests, *including the augmented California Standards Tests*, for
14 academic credit, or placement, and admissions processes, or both
15 purposes.

16 (l) The ~~superintendent~~ *Superintendent* shall, with the approval
17 of the state board, annually release to the public at least 25
18 percent of test items from the standards-based achievement test
19 provided for in Section 60642.5 from the test administered in the
20 previous year.

21 (m) This section shall become operative July 1, 2007.

22 (n) *This section shall become inoperative on July 1, 2011, and,*
23 *as of January 1, 2012, is repealed, unless a later enacted statute,*
24 *that becomes operative on or before January 1, 2012, deletes or*
25 *extends the dates on which it becomes inoperative and is*
26 *repealed.*